

good start in trying to get this bill done in a timely fashion this week, and I thank him for his cooperation.

With respect to the issue of the judge, if the Senator does not want to vote on a judge, I know our leader would like to have a vote this morning, whether it is on a judge or some procedural matter. The leader would like to get Members to the Chamber for this discussion. Obviously, this is a vitally important discussion. The role of advise and consent is one of the more fundamental issues we have to grapple with, and our leader would like to have as much participation as possible. As is the case in the Senate, we usually cannot get that participation unless Senators are in the Chamber for a vote, and I think that is his intention.

We will certainly work with the other side in making sure we can come up with some accommodation that will suit both sides.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. We resume today the debate on the issue of partial-birth abortion and Congress's fourth attempt to ban this procedure. There have been comments in the past about some of the descriptions we have used on the floor as to whether they are accurate, and whether some of the charts we have used are medically accurate charts. Some suggested in the line drawings we had depicted a fetus that was larger than the size of most in partial-birth abortions. In working with people from the medical community, we have come up with more realistic drawings to depict the actual procedure so people can graphically understand what is described in this legislation.

I will read the description in the legislation and show how the chart behind me is representative of this description. We have tightened the definition. The reason we tightened the definition was in response to the U.S. Supreme

Court that found the original definition in the congressional bill, which is similar to the one in Nebraska, was unduly vague, and, therefore, unconstitutional because of vagueness. We have taken further steps to make sure that by banning this procedure we are not including any other procedure that is used for late-trimester, late-term abortions.

Let me read what is in the legislation today and then go through the charts to show how that comports with this definition.

(1) the term "partial-birth abortion" means an abortion in which—

(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother . . .

Now, I break from the text as to what partial-birth abortions are. The procedure itself is done in a breech position, but there may be a case—and this is what we are taking into consideration, here, the presentation—where the doctor makes a mistake and cannot deliver the child for some reason in a breech position. As I know, having been the father of seven children, you do not want a breech delivery. That is a dangerous delivery. That is not a normal delivery.

To authorize or to start a delivery in breech is a higher risk to the mother. No. 1. No. 2, for purposes of this procedure, that is what is described, that is what the doctors have said is the procedure which they would recommend. But there are always, in these medical procedures, chances for things to go awry so we take into consideration that if for some reason during this procedure the head is presented first, that will still be covered.

or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

Now, that is the description that is in the bill.

Let me show graphically the process by which this abortion takes place. This is a picture of a fetus inside the mother's uterus with the gestational age of roughly 24 weeks. The gestational period is 40 weeks for normal development. We are talking about now 24 weeks, or better than halfway through the pregnancy. That is when the vast majority of partial-birth abortions occur. In fact, all of them occur after 20 weeks. Most of them occur 22, 24, 26 weeks.

In the first picture we see the baby in the womb, in the normal fetal position. What has happened before this procedure occurs is the mother presents herself to the abortionist. And the abortionist, in making a determination to do a partial-birth abortion, gives the mother a medication to dilate her cervix so this procedure can then be per-

formed. This dilation occurs over a 2-day period. The woman presents one day, the next day she stays at home, and the third day she arrives at the abortion clinic.

I use abortion clinic advisedly because this procedure is not performed in hospitals. It is not taught at medical schools. It is done solely at abortion clinics. The doctor who created this procedure testified that the reason he created this procedure was not because this was a better medical procedure for women. This was not designed for women's health. He said, and I am quoting him, he designed this procedure because other late-term abortions, when women presented themselves into his office, took 45 minutes. He could do this procedure in 15 minutes. Therefore, he said, he can do more abortions; he can make more money. So the person who designed this procedure, the person who put the medical literature out on this procedure is very clear as to why he designed this procedure. It is quick. It is easier for him. And he can make more money because he can do more abortions in a day.

So the mother, having been presented at the abortion clinic 2 days before, takes this drug. We heard from the Senator from Ohio yesterday, Senator DEWINE, of instances where mothers in Ohio, two cases—remember, this procedure was invented by a doctor in Ohio—two cases from a Dayton abortion clinic where the mother was given medicine to dilate her cervix and in two separate cases, because of the dilation, labor was induced and two different women delivered babies. One named Baby Hope lived 3½ hours and was not given medical treatment. I don't know all the facts as to why. Maybe it was an assessment that the child was too premature to live. The second baby, Baby Grace, was born and survived as a result of the live birth.

So we are talking about children here. This is very important. We are talking about this little infant here, this fetus, that would otherwise be born alive. The definition of the bill, I repeat one more time, of a baby delivered in a breech position:

. . . any part of the fetal trunk past the navel is outside the body of the mother for the purposes of performing an overt act that . . . will kill the . . . fetus.

You cannot kill a fetus if it is not alive. So this is a very important part of this definition. When the baby is delivered, the baby must be alive. If the baby is dead, we are not talking about an abortion because the baby is already dead. We are talking about a living fetus, living baby.

The first step now, the women presents herself, the cervix has been dilated, the physician goes in and grabs the baby's foot and begins to pull the baby into the birth canal in a breech position. Again, I repeat, no one preferably delivers a child in a breech position. It is just not what is medically recommended, but in this case we have the child being presented in a breech position.